

# ***ST 2095 - SALES TAX : PRE-RECORDED VIDEO TAPES***



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SALES TAX : PRE-RECORDED VIDEO TAPES

REF

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1127414		SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT, SECOND SCHEDULE, SUB-ITEM 46(2B). THIRD SCHEDULE, ITEM 6.

The purpose of this ruling is to provide guidelines for the classification of pre-recorded video tapes following amendments to the sales tax law in the 1982 and 1983 Budgets. The term "pre-recorded video tapes" covers all video tapes on which material has been recorded whether the video tapes have been recorded for sale or lease, for the recorder's own use or recorded to the specific order of a customer. Pre-recorded video tapes may be classified at one of three sales tax rates, 7.5%, 20% or 32.5%, depending on the nature of their content and uses.

2. Sub-item 46(2B) in the Second Schedule to the Sales Tax (Exemptions and Classifications) Act imposes sales tax at the 32.5% rate on blank and pre-recorded video tapes of a kind used with video players and recorders subject to two exclusions. The first exclusion relates to goods to which item 6 in the Third Schedule applies - they are taxable at the 7.5% rate. The second exclusion relates to goods to which paragraphs 6(1)(a) and 6(1)(b) in the Third Schedule apply. These goods are not covered either by sub-item 46(2B), Second Schedule or by sub-item 6(1), Third Schedule, and are taxable at the general rate, presently 20%.

3. Sub-item 6(1) in the Third Schedule relates to exhibition copies of motion picture films including films to be exhibited by televising. An exhibition copy of a film is one which is capable of being exhibited by a projector, whether in public or private, or being televised. So far as pre-recorded video tapes are concerned they are used to produce a picture on a screen and are regarded as motion picture films for the purposes of sub-item 6(1). Pre-recorded video tapes that are exhibition copies of motion picture films are subject to tax at the 7.5% rate under sub-item 6(1), Third Schedule, unless specifically excluded by any of the three following paragraphs in that sub-item:

- (a) exhibition copies of films for the private, domestic or personal use of the person by or for whom they are produced (broadly stated, these are personal films or videos);
- (b) exhibition copies of films to be screened or televised exclusively, or primarily and principally, for advertising purposes (i.e. advertising films and videos); or
- (c) pre-recorded video tapes or pre-recorded video discs, being tapes or discs for use for the private, domestic or personal purposes of any person (broadly stated, these are videos sold or hired for viewing at home, for example, on a domestic video cassette recorder).

RULING 4. The broad effect of sub-item 46(2B), Second Schedule, and item 6, Third Schedule, when read together is that exhibition copies of pre-recorded video tapes - which would cover most pre-recorded video tapes used (other than for advertising) for commercial or industrial purposes - are taxable at 7.5%, pre-recorded advertising video tapes are taxable at 20%, pre-recorded video tapes produced for an individual's private, domestic or personal use are taxable at 20% and all other pre-recorded video tapes are taxable at 32.5%.

5. Examples of pre-recorded video tapes for the "private, domestic or personal use of the person by or for whom they are produced" and taxable at 20% are:-

- (a) video tape of a wedding or other special social occasion produced for the private, domestic or personal use of the persons involved;
- (b) video tape of a horse race commissioned by and produced for the horse owner's private, domestic or personal use.

Examples of pre-recorded video tapes "for use for the private, domestic or personal purposes of any person" and taxable at 32.5% are:-

- (a) video tapes of horse races commissioned by racing clubs or video production companies which are purchased by horse owners for use for their private, domestic or personal purposes;
- (b) video tapes of feature events such as the Melbourne Cup, football grand finals or notable sporting events commissioned by sporting bodies or video production companies which are purchased by persons for use for their private, domestic or personal purposes.

Pre-recorded video tapes for use for the "private, domestic or personal purposes of any person" (taxable at 32.5%) also includes home entertainment video tapes, especially video cassettes generally available for purchase or hire from retail outlets.

6. The following guidelines are provided for classifying pre-recorded video tapes:-

(a) Pre-recorded video tapes produced for sale or hire on the open market

	Provisions of the Law	Rate of Tax
(i) For use as exhibition copies, e.g. staff training video tapes, educational video tapes for use by non-exempt educational institutions - other than exhibition copies for the private, domestic or personal use of the person for whom produced, for home entertainment or for advertising purposes.	Para. 46(2B)(c), 2nd Sch. and sub-item 6(1), 3rd Sch.	7.5%
(ii) For use for the private, domestic or personal purposes of any person, e.g. home viewing.	Sub-item 46(2B), 2nd Sch. and para. 6(1)(c), 3rd Sch.	32.5%
(iii) For use exclusively or primarily for advertising purposes.	Para. 46(2B)(d), 2nd Sch. and para. 6(1)(b), 3rd Sch.	20%

(b) Pre-recorded video tapes produced to specific order

	Provisions of the Law	Rate of Tax
(i) For use as exhibition copies, e.g. staff training video tapes, educational video tapes for use by non-exempt educational institutions-other than exhibition copies for the private, domestic or personal use of the person for whom produced, for home entertainment or for advertising purposes.	Para. 46(2B)(c), 2nd Sch. and sub-item 6(1), 3rd Sch.	7.5%
(ii) For the private, domestic or personal use of the person by or for whom they are produced.	Para. 46(2B)(d), 2nd Sch. and para. 6(1)(a), 3rd Sch.	20%
(iii) for use exclusively or primarily for	Para. 46(2B)(d), 2nd Sch. and para.	20%

advertising purposes. 6(1)(b), 3rd Sch.

- (c) Pre-recorded video tapes produced by television stations for their own use or use by other television stations

	Provisions of the Law	Rate of Tax
(i) Video tapes of news, programmes, live shows and sporting events	Para. 46(2B)(c), 2nd Sch. and sub- item 6(1) 3rd Sch.	7.5%
(ii) Video tapes of advertisements.	Para. 46(2B)(d), 2nd Sch. and para. 6(1)(b), 3rd Sch.	20%

7. The above guidelines apply to pre-recorded video tapes produced in Australia and to imported pre-recorded video tapes.

COMMISSIONER OF TAXATION  
5 November 1984

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